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SDMS# 31361

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region IX

In The Matter Of:

Beckman Instruments, Inc.

Porterville, California,

Respondent

U.S. EPA Docket No.90-26

Proceeding Under Section 106(a) of the  
Comprehensive Environmental Response,  
Compensation, and Liability Act of 1980,  
as amended (42 U.S.C. § 9606(a))

ADMINISTRATIVE ORDER  
FOR REMEDIAL DESIGN AND REMEDIAL ACTION

## TABLE OF CONTENTS

I. INTRODUCTION AND JURISDICTION.....	1
II. FINDINGS OF FACT.....	1
III. CONCLUSIONS OF LAW AND DETERMINATIONS.....	7
IV. NOTICE TO THE STATE.....	8
V. ORDER.....	8
VI. DEFINITIONS.....	8
VII. NOTICE OF INTENT TO COMPLY.....	12
VIII. PARTIES BOUND.....	12
IX. WORK TO BE PERFORMED.....	14
A. <u>General Obligations</u> .....	14
B. <u>Identification of and Obligations Regarding Documents to be Submitted to EPA ("Deliverables")</u> .....	16
X. ADDITIONAL WORK .....	31
XI. EPA PERIODIC REVIEW .....	32
XII. ENDANGERMENT AND EMERGENCY RESPONSE.....	32
XIII. COMPLIANCE WITH APPLICABLE LAWS.....	33
XIV. REMEDIAL PROJECT MANAGER.....	34
XV. SITE ACCESS AND DATA/DOCUMENT AVAILABILITY.....	35
XVI. RECORD PRESERVATION.....	38
XVII. DELAY IN PERFORMANCE.....	39
XVIII. ASSURANCE OF ABILITY TO COMPLETE WORK.....	40
XIX. UNITED STATES NOT LIABLE.....	41
XX. ENFORCEMENT AND RESERVATIONS.....	41
XXI. EFFECTIVE DATE AND COMPUTATION OF TIME.....	43
XXII. OPPORTUNITY TO CONFER.....	43



1 study area includes residential, field crop, orchard, grazing  
2 land, Tule River floodway, commercial, industrial, and vacant  
3 land.

4 2. The Tule River, which flows east to west, is ap-  
5 proximately one-half mile north of the Site. Poplar Ditch, an  
6 irrigation canal flowing east to west, is located west of the  
7 Site.

8 3. Within the study area, EPA has identified two aquifers  
9 separated by an aquitard. Groundwater occurs in the upper  
10 aquifer at depths ranging from seven to twenty-two feet below the  
11 Site. Groundwater generally moves toward the west and northwest  
12 in the upper aquifer, with a small southerly component near  
13 Poplar Ditch.

14 4. In 1964 and 1967 Beckman purchased parcels that com-  
15 prise a portion of the Site. Prior to this time, the land was  
16 farmed. There is no record of industrial activity at the Site  
17 prior to Beckman's development of the property in 1968.

18 5. The Beckman plant occupies approximately 12.5 acres of  
19 a 94.33 acre parcel owned by Beckman Instruments, Inc. The plant  
20 is located at 167 West Poplar Avenue, Porterville, California.  
21 The plant property is bounded by Poplar Road and Highway 190 to  
22 the north, Main Street (old Highway 65) to the east, and agricul-  
23 tural and industrial properties to the south and west.

24 6. The plant consists of seven buildings used to manufac-  
25 ture and repair electronic equipment and to house chemicals and  
26 supplies, the wastewater treatment plant, an environmental test-

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1 ing laboratory, and maintenance equipment. The plant also con-  
2 tains a tank farm, a drum storage area, and the former waste han-  
3 dling areas.

4 7. The Beckman plant has manufactured electronic instru-  
5 ment assemblies, subassemblies, and printed circuit boards at the  
6 Porterville location since 1968. Industrial processes employed  
7 at the plant have included electroplating and degreasing. Waste  
8 streams resulting from these processes have included spent  
9 halogenated solvents, inorganic and acid solutions, salts,  
10 metal-laden solutions, and plating bath sludges. Chemicals  
11 present in the waste streams from time to time have included  
12 solutions of sulfuric, hydrochloric, boric, citric, and  
13 fluoroboric acids; organic cleaning compounds, including TCA;  
14 metals, including copper, lead, nickel, zinc, and tin; and  
15 various mineral salts, including boron, fluoride, sulfate,  
16 nitrate, and chloride.

17 8. Between 1968 and 1974, domestic and industrial wastes  
18 were discharged directly to the City of Porterville sewage treat-  
19 ment facility. Beginning in 1975, nonsewerable industrial wastes  
20 containing, in part, sulfuric, hydrochloric, boric, citric, and  
21 fluoroboric acids together with organic cleaning compounds and  
22 solutions of copper sulfate and ammonium persulfate were dis-  
23 charged to an on-site solar evaporation pond. Discharges to the  
24 pond were terminated in January 1983. Wastes may have also been  
25 placed in other areas near the plant.

26 9. Since 1983, industrial wastewater has been routed to an  
27

1 on-site pretreatment system before being discharged to the City  
2 of Porterville sewage treatment facility.

3 10. The pond, located between two main buildings at the  
4 Site, had a design capacity of approximately 1.2 million gallons.  
5 Discharges to the pond ranged between 100 and 6000 gallons per  
6 day. The walls and bottom of the pond were double-lined: one  
7 lining was polyethylene, the other was polyvinylchloride (PVC).  
8 The sheeting was separated by an 8-inch layer of pea gravel. The  
9 pond was equipped with a leak detection system. Liquid was first  
10 detected in the pond's leak detection sump in 1978, and intermit-  
11 tently until 1981, and again in July 1982 to December 1982. In  
12 1983, all liquid, liners, and surface soils were removed from the  
13 pond and transported to an off-site disposal facility.

14 B. Regulatory and Enforcement History

15 1. Beckman initiated a groundwater investigation in Oc-  
16 tober 1982 in response to enforcement action taken by the  
17 Regional Water Quality Control Board, Central Valley Region  
18 ("RWQCB") and the California Department of Health Services  
19 ("DHS"). At the request of these State agencies, Beckman made  
20 alternate water supplies available to approximately 300  
21 residences.

22 2. In March 1985, DHS placed the Beckman Site on  
23 California's Superfund State Priority Ranking List pursuant to  
24 Section 25356 of the California Health and Safety Code.

25 3. By June 1985, the volatile organic compounds (VOCs) in  
26 the upper aquifer had migrated downgradient approximately 9000  
27

1 feet west of the former pond. In July 1985, Beckman commenced  
2 operation of a system to contain, remove, and treat upper aquifer  
3 groundwater containing VOCs.

4 4. On October 9, 1985, EPA received an official request by  
5 DHS to assume the lead role in overseeing remedial studies and  
6 cleanup activities at the Beckman Site.

7 5. On June 10, 1986, pursuant to Section 105 of CERCLA (42  
8 U.S.C. 9605), EPA placed the Beckman Site on the National  
9 Priorities List (NPL), set forth at 40 C.F.R. Part 300.

10 6. On February 27, 1987, Beckman Instruments, Inc., en-  
11 tered into an Administrative Consent Order, Docket No. 87-02,  
12 with EPA pursuant to Sections 106(a) and 104(a) of CERCLA, 42  
13 U.S.C. §§9606(a), 9604(a), to conduct the Remedial  
14 Investigation/Feasibility Study (RI/FS) at the Beckman Instru-  
15 ments Site.

16 7. A Remedial Investigation report describing the extent  
17 of contamination within the Beckman Site study area was prepared  
18 by a consultant for Beckman and submitted to EPA in December  
19 1988. Beckman submitted a Feasibility Study ("FS") report to EPA  
20 on March 24, 1989. EPA prepared an addendum to the FS report and  
21 released the FS report and Proposed Plan for remedial action for  
22 public review and comment in June 1989.

23 8. EPA's decision for the remedial action to be imple-  
24 mented at the Site is embodied in a final Record of Decision  
25 (ROD), executed on September 26, 1989, on which the State had a  
26 reasonable opportunity to review and comment, and on which the

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1 State has given its concurrence. The Record of Decision is at-  
2 tached to this Order as Appendix 1 and is incorporated by  
3 reference. The Record of Decision is supported by an Administra-  
4 tive Record that contains the documents and information upon  
5 which EPA based the selection of the response action.

6 C. Site Contamination

7 1. The contaminants of concern (COCs) identified in  
8 groundwater beneath the Site are 1,1-Dichloroethane (1,1-DCA),  
9 1,1,1-Trichloroethane (1,1,1-TCA), 1,1-Dichloroethylene (1,1-  
10 DCE), Trichloroethylene (TCE), and Freon-113. Additionally, the  
11 compounds Chloroethane, 1,2-Dichloroethylene (1,2-DCE), 1,2-  
12 Dichloroethane (1,2-DCA), and vinyl chloride are of concern as  
13 these are common degradation products of those COCs identified  
14 above.

15 2. Operation of the upper aquifer groundwater extraction  
16 and treatment system ceased in January 1990 when Beckman  
17 demonstrated to EPA's satisfaction that groundwater cleanup stan-  
18 dards as set forth in the ROD had been achieved. Since that  
19 time, selected index wells in the upper aquifer have been  
20 monitored on a quarterly and annual basis to verify the effec-  
21 tiveness of the remedy.

22 3. The COCs 1,1-DCE, 1,1-DCA, and TCE are present in con-  
23 centrations greater than the selected cleanup standards in areas  
24 of the upper aquitard within the Site study area.

25 4. The COCs 1,1-DCE, 1,1-DCA, and TCE are present in the  
26 lower aquifer in the vicinity of Poplar Ditch and the plant at  
27

1 concentrations greater than the selected cleanup standards.

2 5. Beckman identified soil contaminated with lead in ex-  
3 cess of the selected cleanup standard of 200 parts per million  
4 (ppm) west of Building 1 on the western boundary of the plant.  
5 Beckman removed these soils in March 1990 and transported them to  
6 an off-site disposal facility.

7 III. CONCLUSIONS OF LAW AND DETERMINATIONS

8 A. The Beckman Site is a "facility" as defined in Section  
9 101(9) of CERCLA, 42 U.S.C. § 9601(9).

10 B. Respondent is a "person" as defined in Section 101(21) of  
11 CERCLA, 42 U.S.C. § 9601(21).

12 C. Respondent is a "liable party" as defined in Section 107(a)  
13 of CERCLA, 42 U.S.C. § 9607(a), and is subject to this Order un-  
14 der Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

15 D. The substances listed in Section II, Paragraph C are found  
16 at the Site and are "hazardous substances" as defined in Section  
17 101(14) of CERCLA, 42 U.S.C. § 9601(14).

18 E. The past disposal and migration of hazardous substances from  
19 the Site constitutes a "release" as defined in Section 101(22) of  
20 CERCLA, 42 U.S.C. § 9601(22).

21 F. The potential for future migration of hazardous substances  
22 from the Site poses a threat of a "release" as defined in Section  
23 101(22) of CERCLA, 42 U.S.C. § 9601(22).

24 G. The release and threat of release of one or more hazardous  
25 substances from the facility may present an imminent and substan-  
26 tial endangerment to the public health or welfare or the environ-

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1 ment.

2 The contamination and endangerment at this Site constitute  
3 an indivisible injury. The actions required by this Order are  
4 necessary to protect the public health, welfare, and the environ-  
5 ment.

6 IV. NOTICE TO THE STATE

7 On September 25, 1990, prior to issuing this Order, EPA  
8 notified the State of California, Department of Health Services,  
9 that EPA would be issuing this Order.

10 V. ORDER

11 Based on the foregoing, Respondent is hereby ordered to  
12 comply with the following provisions, including but not limited  
13 to all attachments to this Order, all documents incorporated by  
14 reference into this Order, and all schedules and deadlines in  
15 this Order, attached to this Order, or incorporated by reference  
16 into this Order:

17 VI. DEFINITIONS

18 Unless otherwise expressly provided herein, terms used in  
19 this Order which are defined in CERCLA or in regulations promul-  
20 gated under CERCLA shall have the meaning assigned to them in the  
21 statute or its implementing regulations. Whenever terms listed  
22 below are used in this Order or in the documents attached to this  
23 Order or incorporated by reference into this Order, the following  
24 definitions shall apply:

25 "Beckman Instruments, Inc. Superfund Site", "the Beckman  
26 Site", or "the Site" shall mean the approximately 12.5 acres of

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1 property occupied by the Beckman Plant located at 167 West Poplar  
2 Avenue, Porter ville, California, including all areas where haz-  
3 ardous materials were released, disposed of, or have come to be  
4 located.

5 "CERCLA" shall mean the Comprehensive Environmental  
6 Response, Compensation, and Liability Act of 1980, as amended, 42  
7 U.S.C. §§ 9601 et seq.

8 "Clean-up Standard(s)" shall mean the levels of clean-up,  
9 and associated criteria, to be achieved in the contaminated  
10 groundwater. These standards and associated criteria shall in-  
11 clude those identified in the ROD, those established by the ap-  
12 plicable or relevant and appropriate requirements ("ARARs") iden-  
13 tified in the ROD, and those set forth in Section IX (Work To Be  
14 Performed), Paragraph C.

15 "Day" shall mean a calendar day unless expressly stated to  
16 be a working day. "Working day" shall mean a day other than a  
17 Saturday, Sunday, or federal holiday. In computing any period of  
18 time under this Order, where the last day would fall on a Satur-  
19 day, Sunday, or federal holiday, the period shall run until the  
20 end of the next working day.

21 "EPA" shall mean the United States Environmental Protection  
22 Agency.

23 "National Contingency Plan" or "NCP" shall mean the National  
24 Contingency Plan promulgated pursuant to Section 105 of CERCLA,  
25 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, including any  
26 amendments thereto.

27

1       "Operation and Maintenance" or "O&M" shall mean all ac-  
2       tivities required under the Operation and Maintenance Plan  
3       developed by Respondent pursuant to this Order and Section IX,  
4       (Work To Be Performed) and approved by EPA.

5       "Oversight" shall mean the United States' and/or its con-  
6       tractors' inspection of remedial work and all other actions taken  
7       to verify the adequacy of all activities undertaken and reports  
8       submitted by Respondent as required under the terms of this Or-  
9       der.

10       "Performance Standards" shall mean those cleanup standards,  
11       standards of control, and other substantive requirements,  
12       criteria or limitations, identified in the Record of Decision and  
13       Section IX (Work To Be Performed), that the Remedial Action and  
14       Work required by this Order must attain and maintain.

15       "Record of Decision" or "ROD" shall mean the EPA Record of  
16       Decision relating to the Site, signed by the Regional Ad-  
17       ministrators on September 26, 1989, all attachments and any amend-  
18       ments thereto.

19       "Remedial Action" or "RA" shall mean those activities, to be  
20       undertaken by Respondents to implement the final plans and  
21       specifications submitted by Respondent pursuant to the Remedial  
22       Design Project Plan approved by EPA, including any additional ac-  
23       tivities required under Sections IX, X, XI, XII, and XXI of this  
24       Order.

25       "Remedial Design" or "RD" shall mean those activities to be  
26       undertaken by Respondent to develop the final plans and  
27

1 specifications for the Remedial Action pursuant to the Work Plan  
2 and this Order.

3 "Response Costs" shall mean all costs including, administra-  
4 tive, enforcement, removal, investigative and remedial or other  
5 direct and indirect costs and accrued interest thereon, incurred  
6 by the United States pursuant to CERCLA. Response costs include  
7 but are not limited to oversight costs, which are the costs of  
8 overseeing the Work, such as the costs of reviewing or developing  
9 plans, reports and other items pursuant to this Order and costs  
10 associated with verifying the Work.

11 "Section" shall mean a portion of this Order identified by a  
12 roman numeral and includes one or more paragraphs.

13 "State" shall mean the State of California.

14 "United States" shall mean the United States of America.

15 "Waste Material" shall mean (1) any "hazardous substance"  
16 under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any  
17 "pollutant" or "contaminant" under Section 101(33); or (3) any  
18 "hazardous waste" under Section 1004(5) of RCRA, 42 U.S.C.  
19 § 6903(5).

20 "Work" shall mean all activities Respondent is required to  
21 perform under this Order, including Remedial Design, Remedial Ac-  
22 tion, Operation and Maintenance, and any activities required to  
23 be undertaken pursuant to Sections IX (Work To Be Performed)  
24 through XVIII (Assurance of Ability To Complete Work).

25 "Work Plan" shall mean the work plan developed by the  
26 Respondent and approved by EPA which details the work to be con-  
27

1 ducted pursuant to this Order.

2 VII. NOTICE OF INTENT TO COMPLY

3 Respondent shall provide, not later than ten (10) days  
4 after the effective date of this Order, written notice to EPA's  
5 Remedial Project Manager (RPM) stating whether it will comply  
6 with the terms of this Order. If Respondent does not unequivocally  
7 commit to perform the RD and RA as provided by this Order,  
8 it shall be deemed to have violated this Order and to have failed  
9 or refused to comply with this Order. Respondent's written  
10 notice shall describe, using facts that exist on or prior to the  
11 effective date of this Order, any "sufficient cause" defenses as-  
12 serted by Respondent under Sections 106(b) and 107(c)(3) of  
13 CERCLA, 42 U.S.C. §§ 9606(b), 9607(c)(3). The absence of a  
14 response by EPA to the notice required by this paragraph shall  
15 not be deemed to be acceptance of Respondent's assertions.

16 VIII. PARTIES BOUND

17 A. This Order shall apply to and be binding upon the  
18 Respondent identified in Section II, its directors, officers,  
19 employees, agents, successors, and assigns. Respondent is  
20 responsible for carrying out all activities required by this Or-  
21 der. No change in the ownership, corporate status, or other con-  
22 trol of Respondent shall alter any of the Respondent's respon-  
23 sibilities under this Order.

24 B. Respondent shall provide a copy of this Order to any  
25 prospective owners or successors before a controlling interest in  
26 Respondent's assets, property rights, or stock are transferred to  
27

1 the prospective owner or successor. Respondent shall provide a  
2 copy of this Order to each contractor, sub-contractor,  
3 laboratory, or consultant retained to perform any Work under this  
4 Order, within five days after the effective date of this Order or  
5 on the date such services are retained, whichever date occurs  
6 later. Respondent shall also provide a copy of this Order to  
7 each person representing it with respect to the Site or the Work  
8 and shall condition all contracts and subcontracts entered into  
9 hereunder upon performance of the Work in conformity with the  
10 terms of this Order. With regard to the activities undertaken  
11 pursuant to this Order, each contractor and subcontractor shall  
12 be deemed to be related by contract to the Respondent within the  
13 meaning of Section 107(b)(3) of CERCLA, 42 U.S.C. § 9607(b)(3).  
14 Notwithstanding the terms of any contract, Respondent is respon-  
15 sible for compliance with this Order and for ensuring that its  
16 contractors, subcontractors and agents comply with this Order,  
17 and perform any Work in accordance with this Order.

18 C. Within ten (10) days after the effective date of this  
19 Order Respondent shall record a copy of this Order in the ap-  
20 propriate governmental office where land ownership and transfer  
21 records are filed or recorded. Respondents shall, within 15 days  
22 after the effective date of this Order, send notice of such  
23 recording and indexing to EPA.

24 D. Not later than sixty (60) days prior to any transfer of  
25 any real property interest in any property included within the  
26 Site, Respondent shall submit a true and correct copy of the  
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1 transfer documents to EPA, and shall identify the transferee by  
2 name, principal business address and effective date of the trans-  
3 fer.

4 IX. WORK TO BE PERFORMED

5 A. General Obligations

6 1. Respondent shall cooperate with EPA in providing infor-  
7 mation regarding the Work to the public. As requested by EPA,  
8 Respondent shall participate in the preparation of such informa-  
9 tion for distribution to the public and in public meetings which  
10 may be held or sponsored by EPA to explain activities at or  
11 relating to the Site.

12 2. Notwithstanding any approvals which may be granted by  
13 the United States or other governmental entities, Respondent  
14 shall assume any and all liability arising from or relating to  
15 its contractors, subcontractors, or any other person acting on  
16 its behalf in the performance of the Remedial Action or its  
17 failure to perform fully or complete the Remedial Action.

18 3. Respondent shall appoint a representative ("Project  
19 Coordinator") designated by it to act on its behalf to execute  
20 the Remedial Action. Within 5 days after the effective date of  
21 this Order, Respondent shall notify EPA in writing of the name  
22 and qualifications of the Project Manager, including the support  
23 entities and staff, proposed to be used in carrying out Work un-  
24 der this Order. If at any time Respondent proposes to use a dif-  
25 ferent Project Manager, Respondent shall notify EPA and shall ob-  
26 tain approval from EPA before the new Project Manager performs

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1 any Work under this Order.

2 4. EPA will review Respondent's selection of a Project  
3 Manager according to the terms of this paragraph. If EPA disap-  
4 proves of the selection of the Project Manager, Respondent shall  
5 submit to EPA within 30 days after receipt of EPA's disapproval  
6 of the Project Manager previously selected, a list of Project  
7 Managers, including primary support entities and staff, that  
8 would be acceptable to Respondent. EPA will thereafter provide  
9 notice to Respondent of the names of the Project Managers that  
10 are acceptable to EPA. Respondent may then select any approved  
11 Project Manager from that list and shall notify EPA of the name  
12 of the Project Manager selected within twenty-one (21) days of  
13 EPA's designation of approved Project Managers.

14 5. While Respondent may collect, stage, and secure  
15 materials on-site, it shall not, in performance of response ac-  
16 tivities under this Order, treat and redeposit material into the  
17 Site without the presence and approval of EPA or EPA's designated  
18 oversight personnel.

19 6. Respondent shall dispose of any materials taken offsite  
20 in compliance with the EPA's Revised Procedures for Implementing  
21 Off-Site Response Actions ("Off-site Policy" EPA OSWER Directive  
22 9834.11, November 13, 1987) and any amendments thereto.

23 7. Respondent shall submit all reports (daily, weekly,  
24 monthly, etc.) prepared by its contractors and subcontractors to  
25 EPA and EPA's designated oversight personnel, according to the  
26 schedules set forth in this Order.

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1           8.   Respondent shall sample groundwater monitoring wells on  
2   a quarterly basis in the months of March, June, September and  
3   December consistent with and as designated in Section IX.B.5  
4   (Sampling and Analysis Plan) and Section IX.B.7 (Quality As-  
5   surance Project Plan). Samples shall be analyzed for purgeable  
6   halocarbons and purgeable aromatics using EPA Methods 601 and  
7   602, respectively.

8   B. IDENTIFICATION OF AND OBLIGATIONS REGARDING DOCUMENTS

9                               TO BE SUBMITTED TO EPA

10                              "DELIVERABLES"

11           1.   Work Plan

12               a.   Within 30 days of the effective date of this Or-  
13   der, Respondent shall submit a Work Plan to EPA for the Remedial  
14   Design and Remedial Action at the Site. The Work Plan shall  
15   describe the tasks necessary for the Respondent to implement the  
16   remedy at the Site and shall include, but not be limited to, a  
17   description of those tasks necessary to develop the deliverables  
18   in accordance with the schedule attached as Appendix 2 to this  
19   Order. The Work Plan shall be developed in conformance with the  
20   ROD, EPA Superfund Remedial Design and Remedial Action Guidance  
21   (June 1986, "RD/RA Guidance") and any additional guidance docu-  
22   ments provided by EPA.

23               b.   Respondent shall implement the work detailed in  
24   the Work Plan as approved or modified by EPA. The fully approved  
25   Work Plan shall be deemed incorporated into and made an enforce-  
26   able part of this Order. Any noncompliance with any EPA approved  
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1 reports, plans, specifications, schedules, appendices or attach-  
2 ments to the Work Plan or this Order shall be considered a  
3 failure to comply with this Decree, and shall subject Respondent  
4 to stipulated penalties as provided in Section XXI.E (Enforcement  
5 and Reservations). All work shall be conducted in accordance  
6 with the National Contingency Plan, the RD/RA Guidance, and the  
7 requirements of this Order, including the plans, specifications,  
8 and schedules contained in the Work Plan.

9       2. Monthly Progress Reports: The Respondent shall provide  
10 monthly written progress reports to EPA. These progress reports  
11 shall be submitted to EPA by the 10th of each month for work done  
12 the preceding month and planned for the current month, including  
13 sampling events. The first monthly report pursuant to this Order  
14 will be due by the tenth of the calendar month immediately fol-  
15 lowing the effective date of this Order. The progress reports  
16 shall include, but not be limited to:

- 17           a. A summary of technical and field work performed  
18 since the previous report;
- 19           b. A discussion of significant findings and events;
- 20           c. A schedule of all Remedial Action activities  
21 projected to be performed or completed during the next reporting  
22 period. Respondent shall give EPA at least five (5) days notice  
23 of scheduled sampling activities;
- 24           d. Deliverables due during the next reporting period;  
25 and
- 26           e. Key personnel changes.
- 27

1           3.   Quarterly Monitoring Report: The results of the  
2 groundwater quality and water level monitoring program shall be  
3 documented in three quarterly and one annual report. The Respon-  
4 dent shall submit a Quarterly Monitoring Report to EPA within  
5 sixty (60) days of completing each quarterly sampling event. The  
6 Quarterly Report shall contain, but not be limited to:

7           a.   A summary of groundwater quality and water level  
8 monitoring performed during the previous quarter;  
9           ua, uad, and la ~~with~~ *upper and*  
10           b.   A summary of water level changes in the ~~reached~~  
11 ~~and regional zone~~ monitoring wells, including water level  
12 hydrographs for each monitoring well and water level contour maps  
13 for each zone;  
14           c.   An evaluation of groundwater quality conditions  
15 based on analytical results of groundwater samples collected and  
16 contaminant concentration hydrographs;  
17           d.   A summary of significant findings;  
18           e.   A tabular summary of all analytes detected at each  
19 groundwater monitoring well, including historical data where  
20 available;  
21           f.   A summary and discussion of significant events and  
22 operating data for the groundwater treatment system for the pre-  
23 vious quarter; and  
24           g.   A summary of data validation activities performed  
25 in accordance with the EPA approved Quality Assurance Project  
26 Plan prepared and submitted under Section IX.B.7 (Quality As-  
27 surance Project Plan) and results of data validation.

1           4.   Annual Monitoring Report: As described in Paragraph 3  
2 above, the results of the groundwater quality and water level  
3 monitoring program shall be documented in three quarterly and one  
4 annual report. The Respondent shall submit an Annual Report to  
5 EPA within ninety (90) days of completing the annual sampling  
6 event. The Annual Report shall summarize the groundwater  
7 monitoring data and treatment system operational data for the  
8 previous year. This Annual Report shall be combined with the  
9 December Quarterly Report and, in addition to the elements re-  
10 quired for the Quarterly Report, shall contain, but not be  
11 limited to:

12               a.   An introduction including purpose, scope and a  
13 summary of activities;

14               b.   A summary of hydrogeologic conditions, including  
15 water level hydrographs for all monitoring wells;

16               c.   A summary of groundwater quality conditions and  
17 evaluation of trends observed during the calendar year based on  
18 analytical results of groundwater samples collected and con-  
19 taminant concentration hydrographs; and

20               d.   A summary of remedial system operations and per-  
21 formance data for the previous calendar year.

22           5.   Sampling and Analysis Plan: Respondent shall submit a  
23 Sampling and Analysis Plan for all groundwater sampling events  
24 including but not limited to those quarterly monitoring events  
25 reported under Paragraph 3 above, and for all sampling events  
26 necessary to evaluate the performance of the treatment system,

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1 including, but not limited to, influent and effluent sampling  
2 events reported under Paragraph 4 above. The Sampling and  
3 Analysis Plan shall be prepared in conformance with applicable  
4 EPA guidance and consistent with Section IX.B.10 (Data Management  
5 Plan), and shall include, but not be limited to, the following:

- 6 a. Background information;
- 7 b. Objectives of sampling effort;
- 8 c. Locations of sampling points;
- 9 d. Rationale for sampling locations, number of  
10 samples, blanks and duplicates, and analytical parameters;
- 11 e. Drilling, well construction, development, and  
12 testing procedures;
- 13 f. Monitoring schedule;
- 14 g. Plans for disposal of contaminated or potentially  
15 contaminated materials generated during sampling;
- 16 h. Sample labeling, sealing, storage, shipment, pack-  
17 ing, and chain-of-custody procedures; and
- 18 i. Analytical methods to be used for sample analysis.

19 6. Worker Health and Safety/Emergency Response Plan:

20 Respondent shall submit a Worker Health and Safety/Emergency  
21 Response Plan prepared in conformance with applicable Occupa-  
22 tional Safety and Health Administration and EPA requirements, in-  
23 cluding but not limited to OSHA regulations found at 29 C.F.R.  
24 § 1910.120. The Emergency Response Plan shall address exposure  
25 of workers at the Site and the public to potential releases or  
26 spills at or from the Site or study area.

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1           7.   Quality Assurance Project Plan

2           a.   Within thirty (30) days of receipt of EPA approval  
3 of the Work Plan, Respondent shall submit a Quality Assurance  
4 Project Plan for Remedial Design and Remedial Action activities.  
5 The Quality Assurance Project Plan shall, where applicable, be  
6 prepared in accordance with current EPA guidance, Interim  
7 Guidelines and Specifications for Preparing the Quality Assurance  
8 Project Plans, QAMS 005/80, and EPA's Region IX Guidance For  
9 Preparing Quality Assurance Project Plans for Superfund Remedial  
10 Projects, 9-QA-03-90 (September 1989). Upon approval and notice  
11 by EPA to the Respondent, Respondent shall implement the Plan.  
12 The Plan shall include, but not be limited to:

- 13                   1) Project organization and responsibility;
- 14                   2) Data quality and quality assurance objectives;
- 15                   3) Sampling procedures;
- 16                   4) Sample control and custody procedures;
- 17                   5) Procedures necessary for the implementation of  
18 trial test(s) of the pumping and treatment system and any other  
19 process used as part of the Remedial Action;
- 20                   6) A description of the mechanism used to verify  
21 that the extraction and treatment process is operating within ac-  
22 ceptable limits;
- 23                   7) Calibration procedures and frequency;
- 24                   8) Analytical procedures;
- 25                   9) Data reduction, validation and reporting;
- 26                   10) Internal quality control checks and frequency;

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- 1 11) Performance and system audits and frequency;
- 2 12) Preventive maintenance procedures and
- 3 schedules;
- 4 13) Assessment of data quality;
- 5 14) Corrective action procedures; and
- 6 15) Quality assurance reports.

7 b. Respondents shall use QA/QC procedures in accor-  
8 dance with the Quality Assurance Project Plans submitted pursuant  
9 to this Order, and shall utilize standard EPA chain-of-custody  
10 procedures, as documented in the National Enforcement Investiga-  
11 tions Center Policies and Procedures Manual, as revised in 1986,  
12 and amendments thereto, and the National Enforcement Investiga-  
13 tions Center Manual for the Evidence Audit, published in Septem-  
14 ber 1981 and amendments thereto, for all sample collection and  
15 analysis activities, unless other procedures are approved by EPA.  
16 In order to provide quality assurance and maintain quality con-  
17 trol regarding all samples collected pursuant to this Order, the  
18 Respondents shall, at a minimum, ensure that the following QA/QC  
19 measures are employed at laboratories utilized for analysis:

20 1) All contracts with laboratories utilized by  
21 Respondent for analysis of samples taken pursuant to this Order  
22 shall provide for access of EPA personnel and EPA authorized rep-  
23 resentatives to assure the accuracy of laboratory results related  
24 to the Beckman Site.

25 2) Any laboratory utilized by Respondent for  
26 analysis of samples taken pursuant to this Order shall perform

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1 all analyses according to EPA methods as documented in the Con-  
2 tract Lab Program Statement of Work for Inorganic Analysis and  
3 the Contract Lab Program Statement of Work for Organic Analysis  
4 dated July 1985, or methods deemed satisfactory to EPA, and sub-  
5 mit all protocols to be used for analysis to EPA in the plans and  
6 documents required under this Order.

7 3) All laboratories utilized by Respondents for  
8 analysis of samples taken pursuant to this Order shall par-  
9 ticipate in an EPA or EPA equivalent QA/QC program. As part of  
10 the QA/QC program and upon request by EPA, such laboratories  
11 shall perform at Respondent's expense analyses of samples  
12 provided by EPA to demonstrate the quality of each laboratory's  
13 data.

14 c. Notwithstanding any provision of the Order, the  
15 United States retains all of its information gathering, inspec-  
16 tion and enforcement authorities and rights under CERCLA, RCRA  
17 and any other applicable statutes or regulations.

18 8. Remedial Design Plan: Respondent shall submit a  
19 Remedial Design Plan that contains the proposed final construc-  
20 tion plans and specifications for the remedy described in the  
21 ROD. The Remedial Design Plan shall include, but not be limited  
22 to, the following:

23 a. A summary of the analyses of any hydrogeologic  
24 data obtained during remedial design activities;

25 b. Analysis of the data describing the nature and ex-  
26 tent of contaminant concentration exceeding cleanup standards in  
27

1 the lower aquifer and upper aquitard;

2 c. Plans and specifications for all remedial systems;

3 d. A schedule for implementation of remedial ac-

4 tivities;

5 e. Quality Assurance/Quality Control (QA/QC) ac-

6 tivities;

7 f. Cost estimates for upper aquitard/lower aquifer

8 remedial systems;

9 g. Provisions for obtaining access to property neces-

10 sary for performing remedial actions;

11 h. Provisions for obtaining or complying with sub-

12 stantive requirements of relevant State and local permits.

13 9. Remedial Action Plan: Respondent shall submit a

14 Remedial Action Plan that describes the implementation of the

15 Remedial Action selected in the ROD. The Remedial Action Plan

16 shall include, but not be limited to, the following:

17 a. Project organization and responsibility;

18 b. Construction schedules;

19 c. QA/QC activities, including elements necessary for

20 the implementation of trial tests of the pumping and treatment

21 system(s) and a description of the mechanism(s) used to verify

22 that the extraction and treatment processes for groundwater are

23 operating within acceptable limits;

24 d. Monitoring schedule for groundwater monitoring and

25 extraction wells and to collect treatment system performance

26 data;

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- 1 e. Well abandonment procedures;
- 2 f. Equipment decontamination procedures; and
- 3 g. Plans for disposal of contaminated or potentially
- 4 contaminated materials.

5 10. Data Management Plan: Respondent shall submit a Data  
6 Management Plan that describes the proposed data collection  
7 program, data storage requirements and reporting procedures for  
8 supplying performance information to EPA. The Plan shall in-  
9 clude, but not be limited to, the following:

- 10 a. Identification of the types of data gathered for
- 11 assessing the performance of the treatment units;
- 12 b. Location and media for storing the data;
- 13 c. Format for providing the data and QA/QC informa-
- 14 tion for the EPA; and
- 15 d. Frequency of reporting the data and QA/QC informa-
- 16 tion to the EPA.

17 11. Quality Assurance Report: Respondent shall submit a  
18 Quality Assurance Report to verify that the final construction  
19 plans and specifications for the selected remedy were executed.  
20 The Quality Assurance Report shall include, but not be limited  
21 to, the following:

- 22 a. A review of as-built drawings to ensure that
- 23 design changes, if any, from designs included in the Remedial
- 24 Design Plan do not impair the effectiveness of the remedy;
- 25 b. A review of all quality control data and reports
- 26 generated to ensure that adequate quality controls were imple-
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1 mented during construction. This data may include well produc-  
2 tion testing, concrete test data, weld radiographs, and piping  
3 pressure tests;

4 c. The results of a complete inspection of the  
5 facility to ensure that as-built drawings adequately reflect the  
6 configuration of the constructed facility;

7 d. A summary list of items that must be completed  
8 prior to facility operation; and

9 e. Copies of as-built drawings and all quality con-  
10 trol data.

11 12. Confirmation Sampling Plan: Respondent shall submit a  
12 Confirmation Sampling Plan that describes the sampling program to  
13 be completed to verify that Clean-up Standards have been  
14 achieved.

15 13. Work Completion Report: Respondent shall submit a Work  
16 Completion Report by a Registered Professional Engineer certify-  
17 ing that the Clean-up and Performance Standards set forth in this  
18 Decree and in the ROD have been achieved, that all other work is  
19 completed and that the requirements of the Order have been met.  
20 The Work Completion Report shall contain the results of the final  
21 confirmatory sampling.

22 14. Respondent shall submit a draft and a final copy of  
23 each of the deliverables as described above (except the monthly  
24 report, the Quarterly and Annual Reports, and the Quality As-  
25 surance Report) pursuant to the schedule described and attached  
26 to this Decree as Appendix 2. Any failure of the Respondent to  
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1 submit a deliverable in compliance with the schedule will be  
2 deemed a violation of this Order.

3 15. After review of any deliverable, plan, report, or other  
4 item which is required to be submitted for review and approval  
5 pursuant to this Order, EPA may: (a) approve the submission; (b)  
6 approve the submission with modifications; (c) disapprove the  
7 submission and direct Respondent to re-submit the document after  
8 incorporating EPA's comments; or (d) disapprove the submission  
9 and assume responsibility for performing all or any part of the  
10 response action. As used in this Order, the terms "approval by  
11 EPA", "EPA approval" or a similar term mean the action described  
12 in subparagraphs (a) or (b) of this paragraph.

13 16. In the event of approval or approval with modifications  
14 by EPA, Respondent shall proceed to take any action required by  
15 the deliverable, plan, report, or other item, as approved or  
16 modified by EPA.

17 17. Upon receipt of the notice of disapproval or a request  
18 for modification, Respondent shall, within twenty-one (21) days  
19 or such longer time as specified by EPA in its notice of disap-  
20 proval or request for modification, correct the deficiencies and  
21 resubmit the deliverable, plan, report or other item for ap-  
22 proval. Notwithstanding the notice of disapproval, Respondent  
23 shall proceed, at the direction of EPA, to take any action re-  
24 quired by any non-deficient portion of the submission.

25 18. If any submission is not approved by EPA, Respondent  
26 shall be deemed to be in violation of this Order.

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1 C. ADDITIONAL OBLIGATIONS: Work To Be Performed

2 1. The Parties acknowledge and agree that neither the Work  
3 Plan nor any approvals, permits or other permissions which may be  
4 granted by EPA related to this Order constitute a warranty or  
5 representation of any kind by the United States that the Work  
6 Plan will achieve the standards set forth in the ROD, and in  
7 Paragraphs 2(a) and 2(b) below, and shall not foreclose the  
8 United States from seeking performance of all terms and condi-  
9 tions of this Order.

10 Nothing in this Order shall be construed to relieve Respon-  
11 dent of its obligations to achieve all Clean-up Standards and  
12 Performance Standards set forth in the ROD and in Paragraphs 2(a)  
13 and 2(b) below. Following termination of this Order, if post-  
14 termination monitoring indicates that the groundwater Clean-up  
15 Standards are being exceeded, Respondent shall recommence treat-  
16 ment of the groundwater until Clean-up Standards have been  
17 achieved.

18 2. Respondent shall meet all Clean-up Standards and Per-  
19 formance Standards identified in the ROD with respect to the  
20 Remedial Action at the Site, including, but not limited to, the  
21 following:

22 a. Treatment of Groundwater:

23	Freon-113	1.200 ppm
24	1,1-Dichloroethylene	0.006 ppm
25	1,1,1-Trichloroethane	0.200 ppm
26	Trichloroethylene	0.005 ppm

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1           1,1-Dichloroethane                   0.005 ppm

2                   **b. Treatment of Soils:** All soil containing in excess  
3 of 200 ppm of lead shall be excavated and disposed of off-site in  
4 a permitted facility that meets the requirements of EPA's Off-  
5 site Policy, and any amendments thereto.

6           3. In the event EPA determines that the Respondent has  
7 failed to implement the Remedial Action or any portions thereof  
8 in a timely or adequate manner, the EPA or its designate may per-  
9 form such portions of the Remedial Action as EPA determines may  
10 be necessary. If the EPA performs all or portions of the  
11 Remedial Action because of the Respondent's failure to comply  
12 with its obligations under this Order, the Respondent shall reim-  
13 burse the EPA for the costs of doing such work, plus penalties as  
14 set forth in Section XXI.E (Enforcement and Reservations).

15           4. All documents submitted to EPA for approval made pursuant  
16 to this Order shall be sent by overnight mail or some equivalent  
17 delivery service.

18           5. Within thirty (30) days after Respondent concludes that  
19 the Remedial Action has been fully performed, Respondent shall so  
20 notify EPA and shall schedule and conduct a pre-certification in-  
21 spection to be attended by Respondent and EPA. Within thirty  
22 (30) days of the pre-certification inspection Respondent shall  
23 submit a Work Completion Report as set forth in Section IX.B.10.  
24 If, after completion of the pre-certification inspection and  
25 receipt and review of the Work Completion Report, EPA determines  
26 that the Remedial Action or any portion thereof has not been com-

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1 pleted in accordance with this Order, EPA shall notify Respondent  
2 in writing of the activities that must be undertaken to complete  
3 the Remedial Action and shall set forth in the notice a schedule  
4 for performance of such activities. Respondent shall perform all  
5 activities described in the notice in accordance with the  
6 specifications and schedules established therein. If EPA con-  
7 cludes, following the initial or any subsequent certification of  
8 completion by Respondent that the Remedial Action has been fully  
9 performed in accordance with this Order, EPA may notify Respon-  
10 dent that the Remedial Action has been fully performed. EPA's  
11 notification shall be based on present knowledge and Respondent's  
12 certification to EPA, and shall not limit EPA's right to perform  
13 periodic reviews pursuant to Section 121(c) of CERCLA, 42 U.S.C.  
14 § 9621(c), or to take or require any action that in the judgment  
15 of EPA is appropriate at the Site, in accordance with 42 U.S.C.  
16 §§ 9604, 9606, or 9607.

17 6. Within thirty (30) days after Respondent concludes that  
18 all phases of the Work have been fully performed, that the Per-  
19 formance Standards have been attained, and that all Operation and  
20 Maintenance activities have been completed, Respondent shall sub-  
21 mit to EPA a Work Completion Report certifying that the Work has  
22 been completed in full satisfaction of the requirements of this  
23 Order. EPA shall require such additional activities as may be  
24 necessary to complete the Work or EPA may, based upon present  
25 knowledge and Respondent's certification to EPA, issue written  
26 notification to Respondent that the Work has been completed, as  
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1 appropriate, in accordance with procedures determined by EPA for  
2 Respondent's certification of completion of the Remedial Action.  
3 EPA's notification shall not limit EPA's right to perform peri-  
4 odic reviews pursuant to Section 121(c) of CERCLA, 42 U.S.C.  
5 § 9621(c), or to take or require any action that in the judgment  
6 of EPA is appropriate at the Site or study area, in accordance  
7 with 42 U.S.C. §§ 9604, 9606, or 9607.

8 X. ADDITIONAL WORK

9 A. In the event that EPA or the Respondent determines that  
10 additional response work is necessary to protect human health and  
11 the environment, to carry out the remedy described in the ROD or  
12 to meet the Performance or Clean-up Standards described in the  
13 ROD, or in Section IX (Work To Be Performed) of this Order,  
14 Respondent shall implement such additional work. Notification of  
15 any additional work will be provided to the Project Coordinator.

16 B. Unless otherwise stated by EPA, within 30 days of  
17 receipt of notice by EPA that additional work is necessary pur-  
18 suant to this Section, the Respondent shall submit a work plan as  
19 specified by EPA. The plan shall conform to the requirements in  
20 Section IX (Work To Be Performed).

21 C. Any additional work determined to be necessary by  
22 Respondent is subject to approval by EPA.

23 D. Any additional work determined to be necessary by  
24 Respondent and approved by EPA, or determined to be necessary by  
25 EPA to protect human health and the environment, to carry out the  
26 remedy described in the ROD or to meet the Performance or Clean-

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1 up Standards, shall be completed by Respondent in accordance with  
2 the standards, specifications, and schedules approved by EPA.

3 E. If EPA disapproves the plan pursuant to the provisions  
4 of Section IX (Work To Be Performed), within 14 days of such dis-  
5 approval, Respondent, consistent with Section IX (Work to Be  
6 Performed), shall submit a modified plan.

7 F. Respondent shall promptly implement the plan as approved  
8 or modified by EPA.

9 XI. EPA PERIODIC REVIEW

10 Under Section 121(c) of CERCLA, 42 U.S.C. § 9621(c), and any  
11 applicable regulations, EPA may review the Site to assure that  
12 the Work performed pursuant to this Order adequately protects  
13 human health and the environment. Until such time as EPA cer-  
14 tifies completion of the Work, Respondent shall conduct the req-  
15 uisite studies, investigations, or other response actions as  
16 determined necessary by EPA in order to permit EPA to conduct the  
17 review under Section 121(c) of CERCLA. As a result of any review  
18 performed under this paragraph, Respondent may be required to  
19 perform additional Work or to modify Work previously performed. X

20 XII. ENDANGERMENT AND EMERGENCY RESPONSE

21 A. In the event of any action or occurrence during the per-  
22 formance of the Work which causes or threatens to cause a release  
23 of a hazardous substance or which may present an immediate threat  
24 to public health or welfare or the environment, Respondent shall  
25 immediately take all appropriate action to prevent, abate, or  
26 minimize the threat, and shall immediately notify EPA

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1 Project Manager (RPM). If this person is not available, Respon-  
2 dent shall notify the EPA Emergency Response Unit, Region 9.  
3 Respondent shall take such action in consultation with EPA's RPM  
4 and in accordance with all applicable provisions of this Order,  
5 including but not limited to the Health and Safety Plan and the  
6 Contingency Plan. In the event that Respondent fails to take ap-  
7 propriate response action as required by this Section, and EPA  
8 takes that action instead, Respondent shall reimburse EPA for all  
9 costs of the response action. Respondent shall pay the response  
10 costs within thirty (30) days of Respondent's receipt of demand  
11 for payment.

12 B. Nothing in the preceding paragraph shall be deemed to  
13 limit any authority of the United States to take, direct, or or-  
14 der all appropriate action to protect human health and the en-  
15 vironment or to prevent, abate, or minimize an actual or  
16 threatened release of hazardous substances on, at, or from the  
17 Site.

18 XIII. COMPLIANCE WITH APPLICABLE LAWS

19 A. Except as provided in Section 121(e) of CERCLA and the  
20 NCP, no permit shall be required for any portion of the Work con-  
21 ducted entirely on-Site; however, Respondent shall meet all sub-  
22 stantive requirements of ARARs as set forth in the ROD. Where  
23 any portion of the Work requires a Federal or state permit or ap-  
24 proval, Respondent shall submit timely applications and take all  
25 other actions necessary to obtain and to comply with all such  
26 permits or approvals.

27

1        B. All activities conducted by Respondent pursuant to this  
2 Order shall be performed in accordance with the requirements of  
3 all Federal and state laws and regulations. EPA has determined  
4 that the activities contemplated by this Order are consistent  
5 with the National Contingency Plan (NCP).

6        C. This Order is not, and shall not be construed to be, a  
7 permit issued pursuant to any Federal or state statute or regula-  
8 tion.

9                                    XIV. REMEDIAL PROJECT MANAGER

10        A. All communications, whether written or oral, from Respon-  
11 dent to EPA shall be directed to EPA's Remedial Project Manager.  
12 Respondent shall submit to EPA three copies of all deliverables,  
13 documents, including plans, reports, and other correspondence,  
14 which are developed pursuant to this Order, and shall send these  
15 documents by overnight mail.

16        EPA's Remedial Project Manager is:  
17                    Elizabeth Keicher  
18                    EPA, Region IX  
19                    75 Hawthorne St H-7-2  
20                    San Francisco, CA 94105

21        B. EPA has the unreviewable right to change its Remedial  
22 Project Manager. If EPA changes its Remedial Project Manager,  
23 EPA will inform Respondent in writing of the name, address, and  
24 telephone number of the new Remedial Project Manager.

25        C. EPA's RPM shall have the authority lawfully vested in a  
26 Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by  
27 the National Contingency Plan, 40 C.F.R. Part 300. EPA's RPM  
shall have authority, consistent with the National Contingency

1 Plan, to halt any work required by this Order, and to take any  
2 necessary response action.

3 IV. SITE ACCESS AND DATA/DOCUMENT AVAILABILITY

4 A. To the extent that the Site or other areas where work is  
5 to be performed is presently owned or controlled by parties other  
6 than those bound by this Order and to the extent that access to  
7 or easements over property is required for the proper and com-  
8 plete performance of this Order, Respondent shall obtain access  
9 agreements from the present owners or those persons who have con-  
10 trol over the property, including lessees, within sixty (60) days  
11 of the effective date of this Order. Site access agreements  
12 shall provide access to EPA, its contractors and representatives,  
13 and to Respondent and their contractor(s) and authorized repre-  
14 sentatives, and such agreements shall specify that Respondent is  
15 not EPA's representative with respect to liability associated  
16 with Site activities.

17 B. Respondent shall save and hold harmless the United  
18 States and its officials, agents, employees, contractors, sub-  
19 contractors, or representatives for or from any and all claims or  
20 causes of action or other costs incurred by the United States in-  
21 cluding but not limited to attorneys fees and other expenses of  
22 litigation and settlement arising from or on account of acts or  
23 omissions of Respondent, its officers, directors, employees,  
24 agents, contractors, subcontractors, and any persons acting on  
25 its behalf or under their control, in carrying out activities  
26 pursuant to this Order.

1           C. In the event that site access agreements are not ob-  
2   tained within the sixty (60) day period, Respondent shall notify  
3   EPA within sixty five (65) days of the effective date of this Or-  
4   der regarding both the lack of, and efforts to obtain, such  
5   agreements. If Respondent fails to gain access within 60 days,  
6   it shall continue to use best efforts to obtain access until ac-  
7   cess is granted. For purposes of this paragraph, "best efforts"  
8   includes but is not limited to, seeking judicial assistance and  
9   the payment of money as consideration for access.

10          D. Respondent Beckman Instruments, Inc., its agents or rep-  
11   resentatives shall allow EPA and its authorized representatives  
12   and contractors to enter and freely move about all property at  
13   the Site and off-Site areas subject to or affected by the work  
14   under this Order or where documents required to be prepared or  
15   maintained by this Order are located, for the purposes of in-  
16   specting conditions, activities, the results of activities,  
17   records, operating logs, and contracts related to the Site or  
18   Respondent and its representatives or contractors pursuant to  
19   this Order; reviewing the progress of the Respondent in carrying  
20   out the terms of this Order; conducting tests as EPA or its  
21   authorized representatives or contractors deem necessary; using a  
22   camera, sound recording device or other documentary type equip-  
23   ment; and verifying the data submitted to EPA by Respondent.  
24   Respondent shall allow EPA and its authorized representatives to  
25   enter the Site, to inspect and copy all records, files,  
26   photographs, documents, sampling and monitoring data, and other

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1 writings related to work undertaken in carrying out this Order.  
2 Nothing herein shall be interpreted as limiting or affecting  
3 EPA's right of entry or inspection authority under Federal law.

4 E. Respondent may assert a claim of business confidentiality  
5 covering part or all of the information submitted to EPA pursuant  
6 to the terms of this Order under 40 C.F.R. § 2.203, provided such  
7 claim is not inconsistent with Section 104(e)(7) of CERCLA, 42  
8 U.S.C. § 9604(e)(7) or other provisions of law. This claim shall  
9 be asserted in the manner described by 40 C.F.R. § 2.203(b) and  
10 substantiated by Respondent at the time the claim is made. In-  
11 formation determined to be confidential by EPA will be given the  
12 protection specified in 40 C.F.R. Part 2. If no such claim ac-  
13 companies the information when it is submitted to EPA, it may be  
14 made available to the public by EPA or the state without further  
15 notice to the Respondent. Respondent shall not assert confiden-  
16 tiality claims with respect to any data related to Site condi-  
17 tions, sampling, or monitoring.

18 F. Respondent shall maintain for the period during which  
19 this Order is in effect, an index of any materials, records or  
20 documents relating to activities at the Site or to the implemen-  
21 tation of this Order, that Respondent claims contain confidential  
22 business information. The index shall contain, for each item,  
23 the date, author, addressee, and subject of the item. Upon writ-  
24 ten request from EPA, Respondent shall submit a copy of the index  
25 to EPA.

26 G. Any person obtaining access to the Site pursuant to this  
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1 provision shall comply with all applicable provisions of the  
2 Worker Health and Safety Plan as submitted pursuant to Section  
3 IX.B.6 (Worker Health and Safety Plan).

4 H. Notwithstanding any provision of this Order, the United  
5 States retains all of its access authorities and rights under  
6 CERCLA, RCRA and any other applicable federal statute or  
7 authority.

8 I. Respondent shall provide to EPA upon request, copies of  
9 all documents and information within their possession and/or con-  
10 trol or that of its contractors or agents relating to activities  
11 at the Site or to the implementation of this Order, including but  
12 not limited to sampling, analysis, chain-of-custody records,  
13 manifests, trucking logs, receipts, reports, sample traffic rout-  
14 ing, correspondence, or other documents or information related to  
15 the Work. Respondent shall also make available to EPA for pur-  
16 poses of investigation, information gathering, or testimony, its  
17 employees, agents, or representatives with knowledge of relevant  
18 facts concerning the performance of the Work.

19 XVI. RECORD PRESERVATION

20 A. Until ten (10) years after EPA provides notice to Respon-  
21 dent that the Work has been completed pursuant to Section  
22 IX.B.21, Respondent shall preserve and retain all records and  
23 documents in its possession or control, including the documents  
24 in the possession or control of its contractors and agents on and  
25 after the effective date of this Order that relate in any manner  
26 to the Site. At the conclusion of this document retention  
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1 period, Respondent shall notify the United States at least ninety  
2 (90) calendar days prior to the destruction of any such records  
3 or documents, and upon request by the United States, Respondent  
4 shall deliver any such records or documents to EPA.

5 B. Within 10 days after the effective date of this Order,  
6 Respondent shall submit a written certification to EPA's RPM that  
7 they have not altered, mutilated, discarded, destroyed or other-  
8 wise disposed of any records, documents or other information  
9 relating to their potential liability with regard to the Site  
10 since notification of potential liability by the United States or  
11 the State or the filing of suit against it regarding the Site.  
12 Respondent shall not dispose of any such documents without prior  
13 approval by EPA. Respondent shall, upon EPA's request and at no  
14 cost to EPA, deliver the documents or copies of the documents to  
15 EPA.

16 XVII. DELAY IN PERFORMANCE

17 A. Any delay in performance of this Order that, in EPA's  
18 judgment, is not properly justified by Respondent under the terms  
19 of this Section shall be considered a violation of this Order.  
20 Any delay in performance of this Order shall not affect  
21 Respondent's obligations to fully perform all obligations under  
22 the terms and conditions of this Order.

23 B. Respondent shall notify EPA of any delay or anticipated  
24 delay in performing any requirement of this Order. Such  
25 notification shall be made by telephone to EPA's RPM within forty  
26 eight (48) hours after Respondent first knew or should have known  
27

1 that a delay might occur. Respondent shall adopt all reasonable  
2 measures to avoid or minimize any such delay. Within five (5)  
3 business days after notifying EPA by telephone, Respondent shall  
4 provide written notification fully describing the nature of the  
5 delay, any justification for delay, any reason why Respondent  
6 should not be held strictly accountable for failing to comply  
7 with any relevant requirements of this Order, the measures  
8 planned and taken to minimize the delay, and a schedule for im-  
9 plementing the measures that will be taken to mitigate the effect  
10 of the delay. Increased costs or expenses associated with im-  
11 plementation of the activities called for in this Order is not a  
12 justification for any delay in performance.

13 XVIII. ASSURANCE OF ABILITY TO COMPLETE WORK

14 A. Respondent shall demonstrate its ability to complete the  
15 Work required by this Order and to pay all claims that arise from  
16 the performance of the Work by obtaining and presenting to EPA  
17 within thirty (30) days after approval of the Work Plan, one of  
18 the following: (1) a performance bond; (2) a letter of credit;  
19 (3) a guarantee by a third party; or (4) internal financial in-  
20 formation to allow EPA to determine that Respondent has suffi-  
21 cient assets available to perform the Work. Respondent shall  
22 demonstrate financial assurance in an amount no less than the es-  
23 timate of cost for the remedial design and remedial action con-  
24 tained in the Record of Decision for the Site. If Respondent  
25 seeks to demonstrate ability to complete the remedial action by  
26 means of internal financial information, or by guarantee of a  
27

1 third party, it shall re-submit such information annually, on the  
2 anniversary of the effective date of this Order. If EPA deter-  
3 mines that such financial information is inadequate, Respondent  
4 shall, within thirty (30) days after receipt of EPA's notice of  
5 determination, obtain and present to EPA for approval one of the  
6 other three forms of financial assurance listed above.

7 B. At least seven (7) days prior to commencing any work at  
8 the Site pursuant to this Order, Respondent shall submit to EPA a  
9 certification that Respondent or its contractors and subcontrac-  
10 tors have adequate insurance coverage or has indemnification for  
11 liabilities for injuries or damages to persons or property which  
12 may result from the activities to be conducted by or on behalf of  
13 Respondent pursuant to this Order. Respondent shall ensure that  
14 such insurance or indemnification is maintained for the duration  
15 of performance of the Work required by this Order.

16 XIX. UNITED STATES NOT LIABLE

17 The United States, by issuance of this Order, assumes no  
18 liability for any injuries or damages to persons or property  
19 resulting from acts or omissions by Respondent, or its directors,  
20 officers, employees, agents, representatives, successors, as-  
21 signs, contractors, or consultants in carrying out any action or  
22 activity pursuant to this Order. Neither EPA nor the United  
23 States may be deemed to be a party to any contract entered into  
24 by Respondent or its directors, officers, employees, agents, suc-  
25 cessors, assigns, contractors, or consultants in carrying out any  
26 action or activity pursuant to this Order.

27

1                                   XX. ENFORCEMENT AND RESERVATIONS

2           A. EPA reserves the right to bring an action against Respon-  
3   dent under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery  
4   of any response costs incurred by the United States related to  
5   this Order and not reimbursed by Respondent. This reservation  
6   shall include but not be limited to past costs, direct costs, in-  
7   direct costs, the costs of oversight, the costs of compiling the  
8   cost documentation to support oversight cost demand, as well as  
9   accrued interest as provided in Section 107(a) of CERCLA.

10          B. Notwithstanding any other provision of this Order, at any  
11   time during the response action, EPA may perform its own studies,  
12   complete the response action (or any portion of the response ac-  
13   tion) and seek reimbursement from Respondent for its costs, or  
14   seek any other appropriate relief.

15          C. Nothing in this Order shall preclude EPA from taking any  
16   additional enforcement actions, including modification of this  
17   Order or issuance of additional Orders, and/or additional  
18   remedial or removal actions as EPA may deem necessary, or from  
19   requiring Respondent in the future to perform additional ac-  
20   tivities pursuant to CERCLA, 42 U.S.C. § 9606(a), et seq., or any  
21   other applicable law. Respondent shall be liable under CERCLA  
22   Section 107(a), 42 U.S.C. § 9607(a), for the costs of any such  
23   additional actions.

24          D. Notwithstanding any provision of this Order, the United  
25   States hereby retains all of its information gathering, inspec-  
26   tion and enforcement authorities and rights under CERCLA, RCRA  
27

1 and any other applicable statutes or regulations.

2 E. Respondent shall be subject to civil penalties under Sec-  
3 tion 106(b) of CERCLA, 42 U.S.C. § 9606(b), of not more than  
4 \$25,000 for each day in which Respondent willfully violates, or  
5 fails or refuses to comply with this Order without sufficient  
6 cause. In addition, failure to properly provide response action  
7 under this Order, or any portion hereof, without sufficient  
8 cause, may result in liability under Section 107(c)(3) of CERCLA,  
9 42 U.S.C. § 9607(c)(3), for punitive damages in an amount at  
10 least equal to, and not more than three times the amount of any  
11 costs incurred by the Fund as a result of such failure to take  
12 proper action.

13 F. Nothing in this Order shall constitute or be construed as  
14 a release from any claim, cause of action or demand in law or  
15 equity against any person for any liability it may have arising  
16 out of or relating in any way to the Site.

17 G. If a court issues an order that invalidates any provision  
18 of this Order or finds that Respondent have sufficient cause not  
19 to comply with one or more provisions of this Order, Respondent  
20 shall remain bound to comply with all provisions of this Order  
21 not invalidated by the court's order.

22 XXI. EFFECTIVE DATE AND COMPUTATION OF TIME

23 This Order shall be effective on the date signed by the  
24 Regional Administrator. All times for performance of ordered ac-  
25 tivities shall be calculated from this effective date.

26

27

1                                   XXII. OPPORTUNITY TO CONFER

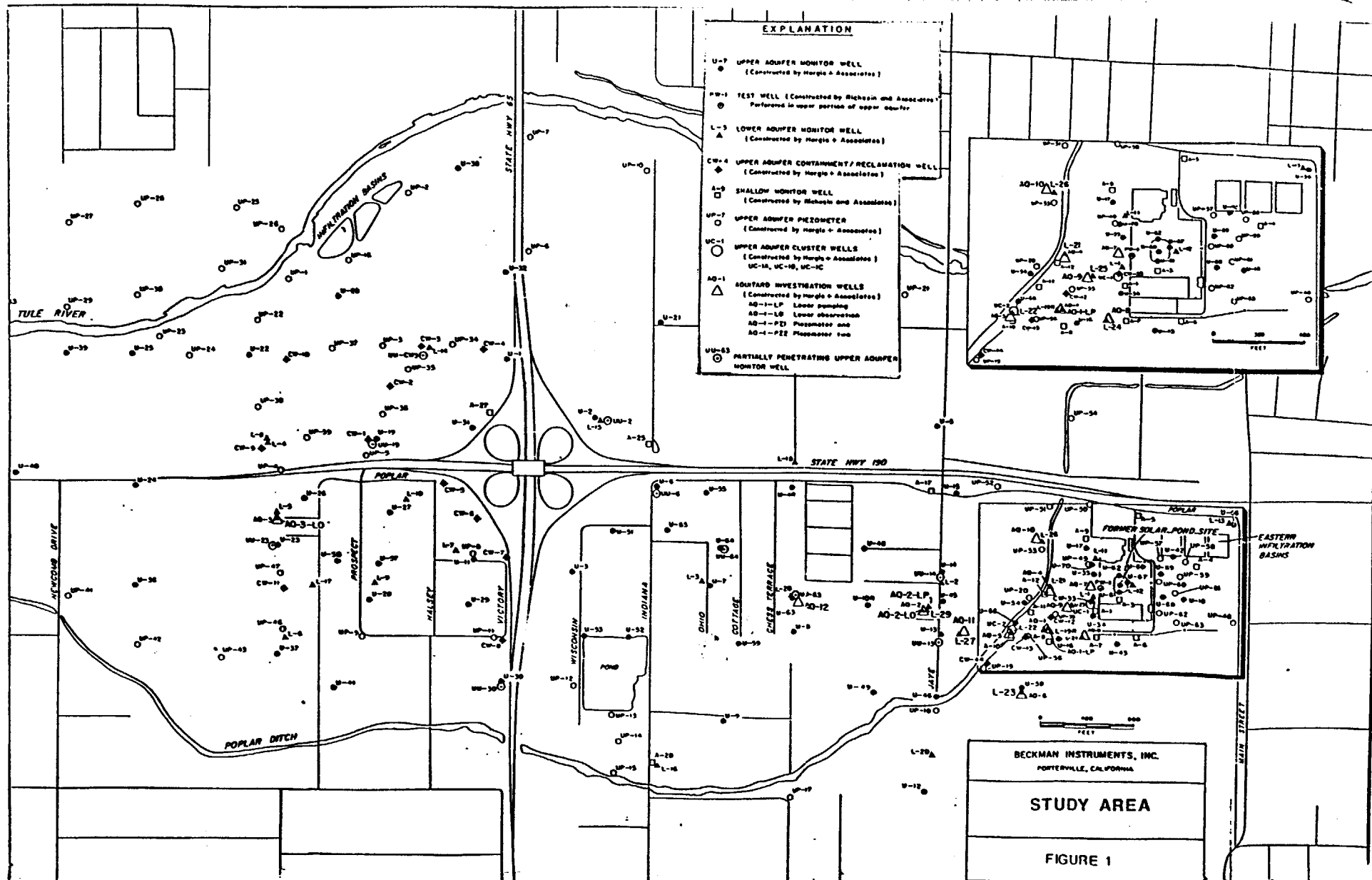
2           A. Respondent may, within ten (10) days after the date this  
3 Order is signed, request a conference with EPA's Director of the  
4 Hazardous Waste Management Division, or whomever the Director may  
5 designate except for the Project Coordinator, to discuss this Or-  
6 der. If requested, the conference shall occur within twenty one  
7 (21) days of the request at 75 Hawthorne Street, San Francisco,  
8 California.

9           B. The purpose and scope of the conference shall be limited  
10 to issues involving the implementation of the response actions  
11 required by this Order and the extent to which Respondent intends  
12 to comply with this Order. This conference is not an evidentiary  
13 hearing, and does not constitute a proceeding to challenge this  
14 Order. It does not give Respondent a right to seek review of  
15 this Order, or to seek resolution of potential liability, and no  
16 official stenographic record of the conference will be made. At  
17 any conference held pursuant to Respondent's request, Respondent  
18 may appear in person or by an attorney or other representative.

19           Requests for a conference must be by telephone followed by  
20 written confirmation mailed that day to Elizabeth Keicher, RPM,  
21 (415) 744-2361, 75 Hawthorne Street H-7-2, San Francisco, CA  
22 94115.

23  
24 So Ordered, this 16th day of November, 1990.

25  
26 BY:   
27     Regional Administrator [or Delegee]  
      U.S. Environmental Protection Agency





**APPENDIX 1**

**Record of Decision**

**Beckman Instruments Site  
Porterville, California**

**APPENDIX 2**

**Schedule**

**Remedial Design/Remedial Action  
Beckman Instruments Site  
Porterville, California**

APPENDIX 2

SCHEDULE  
REMEDIAL DESIGN/REMEDIAL ACTION  
BECKMAN INSTRUMENTS, INC.

<u>Document:</u>	<u>Due:</u>
1) WORK PLAN	
Draft	30 days after effective date of the Order
Final	21 days after receipt of EPA comments
Implementation	Immediately upon EPA approval
2) SAMPLING AND ANALYSIS PLAN	
Draft	30 days after EPA approval of Work Plan
Final	21 days after receipt of EPA comments
Implementation	Immediately upon EPA approval
3) WORKER HEALTH AND SAFETY/EMERGENCY RESPONSE PLAN	
Draft	30 days after EPA approval of Work Plan
Final	21 days after receipt of EPA comments
Implementation	Immediately upon EPA acceptance
4) QUALITY ASSURANCE PROJECT PLAN	
Draft	30 days after EPA approval of Work Plan
Final	21 days after receipt of EPA comments
Implementation	Immediately upon EPA approval
5) REMEDIAL DESIGN PLAN	
Draft	90 days after EPA approval of Work Plan
Final	21 days after receipt of EPA comments
Implementation	Immediately upon EPA approval
6) REMEDIAL ACTION PLAN	
Draft	90 days after EPA approval of Remedial Design

APPENDIX 2 (continued)

SCHEDULE  
REMEDIAL DESIGN/REMEDIAL ACTION

BECKMAN INSTRUMENTS, INC.

1		Plan
2	Final	21 days after receipt of
3	Implementation	EPA comments
4	Construction	Immediately upon receipt
5	Start-up	of EPA approval
6	Routine Operations	30 days after EPA ap- proval of Remedial Action Plan
7		60 days after EPA ap- proval of Remedial Action Plan
8	7) DATA MANAGEMENT PLAN	30 days after start-up
9	Draft	30 days after approval of
10	Final	the Remedial Action Plan
11	Implementation	21 days after receipt of
12		EPA comments
13	8) QUALITY ASSURANCE REPORT	Immediately upon EPA ap- proval
14	Final	
15	9) CONFIRMATION SAMPLING PLAN	90 days after completion
16	Draft	of Remedial Construction
17	Final	30 days after EPA ap- proval of the Remedial Action Plan
18	Implementation	21 days after receipt of
19		EPA comments
20	10) WORK COMPLETION REPORT	Immediately upon comple- tion of the Remedial Ac- tion
21	Draft	
22	Final	30 days after completion
		of Remedial Action
		21 days after receipt of
		EPA comments
	11) MONTHLY PROGRESS REPORTS	
	Final	By the 10th of each month
	12) QUARTERLY MONITORING REPORTS	

**APPENDIX 2 (continued)**

**SCHEDULE  
REMEDIAL DESIGN/REMEDIAL ACTION**

**BECKMAN INSTRUMENTS, INC.**

1	Final	60 days after completion of the quarterly sampling event
2		
3	13) ANNUAL REPORT Final	60 days after completion of the annual sampling event
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION IX

IN THE MATTER OF: )

Beckman Instruments, Inc. )

Porterville, California )

EPA ID No. CAD 048645444 )

RESPONDENT: )

Beckman Instruments, Inc. )

Proceeding Under Section 106(a) of )

the Comprehensive Environmental )

Response, Compensation, and Liability )

Act of 1980, as amended )

(42 U.S.C. § 9606(a)). )

U.S. EPA Region IX

CERCLA Docket No. 90-26

AMENDMENT TO ADMINISTRATIVE ORDER FOR  
REMEDIAL DESIGN AND REMEDIAL ACTION

1. The above-referenced order is hereby amended by incorporating the requirements of Section IX.B.2., Monthly Progress Reports, with Section IX.B.3., Quarterly Monitoring Reports and eliminating the monthly progress reports. Item IX.B.3.g., data validation summaries, is also eliminated.

2. This amendment is effective when signed by EPA.



Joseph J. Palmerino  
Project Manager  
Beckman Instruments, Inc.

Date: 3/15/95

  
for Nancy Lindsay

Chief, Superfund Enforcement Branch  
U.S. EPA Region IX

Date: 3/20/95